

## NOTICE OF PROPOSED ACTION

### PAYMENT BY COUNT SIGNAGE REQUIREMENTS

#### TITLE 14. NATURAL RESOURCES DIVISION 2. DEPARTMENT OF CONSERVATION CHAPTER 5. DIVISION OF RECYCLING

NOTICE IS HEREBY GIVEN that the Department of Conservation (Department), Division of Recycling (Division) proposes to adopt amendments to the California Code of Regulations (CCR), Subchapter 6, Chapter 5, Division 2, Title 14 of the CCR, the Division will propose permanent regulations, after the consideration of all comments, objections or recommendations. The proposed amendments are as follows:

#### SUBCHAPTER 6. RECYCLING CENTERS

##### Article 1. Requirements for Recycling Centers

#### § 2500. OPERATION STANDARDS

Subsection 2500(e)(1): This deletion is necessary due to the addition of new Subsection 2500(e)(3).

Subsection 2500(e)(2): This amendment will further clarify, for consumers and recycling center operators, that consumers may be paid refund value, by count, for each plastic “resin type”.

Subsection 2500(e)(2)(B): This amendment is necessary due to the addition of new Subsection 2500(e)(3).

New Subsection 2500(e)(3): This new subsection has been added to the regulations to require that recycling center operators post a “*NOTICE OF PAYMENT BY COUNT*” sign. This sign will notify consumers of their option of payment by count. In addition, requiring the “*NOTICE OF PAYMENT BY COUNT*” sign to include “*For more information, call 1-800-RECYCLE (732-9253)*” will direct all questions or concerns regarding this program to the appropriate Division contact.

New Figure 9.3: This figure has been added to be consistent with the signage requirements for recycling centers Section 2500(e)(3).

Subsection 2500 Reference: This amendment is necessary to include Section 14552(a) of the Act as a reference.

### Article 3. Accounting and Reporting Requirements

#### § 2535. PAYMENTS TO CONSUMERS, CURBSIDE PROGRAMS, COMMUNITY SERVICE PROGRAMS AND DROPOFF OR COLLECTION PROGRAMS.

Subsection 2535(b)(1): This amendment is necessary to clarify the consumers option of being paid refund value by count for up to fifty empty beverage containers of each material type. The addition of “[each resin type]” to the plastic “material type” reference will further clarify that consumers have the option of payment by count for each plastic resin type.

INFORMATION IS AVAILABLE UPON REQUEST. Copies of the express terms of the proposed action, the initial statement of reasons, and all of the information upon which this proposal is based are available upon request. The rulemaking file is available to the public for review during normal business hours at the Division of Recycling, 801 “K” Street, 19th Floor, Sacramento, California. For general or substance questions regarding this file, please contact the agency contact person, Eloisa Hernandez, at (916) 327-2757. The backup agency contact person for this rulemaking file is Karen Denz, who may be contacted at (916) 322-1899. Any technical inquiries shall be referred to the appropriate staff to ensure a prompt response.

SUBMITTING WRITTEN COMMENTS. The written comment period permits any interested person, or their authorized representative, to submit written comments addressing the proposed amendment to the Department. Written comments, which offer a recommendation and/or objection, or support the proposed amendment, should indicate the amended section to which the comment or comments are directed. Written comments should be sent to the Department and received before the close of the public comment period, no later than 5:00 p.m. on August 15, 2005. Additionally, we request that written comments reference a subsection or section of the proposed action. Written comments received by the Department after the close of the public comment period will not be responded to in the rulemaking file. Submit your written comments to: Eloisa Hernandez, Proposed Payment by Count Signage Requirements Permanent Regulations, Department of Conservation, Division of Recycling, 801 “K” St., MS 19-02, Sacramento, CA 95814. During the 45-day comment period, written comments may also be E-mailed to: [DORRegulations@consvr.ca.gov](mailto:DORRegulations@consvr.ca.gov), or faxed to (916) 323-0732.

PUBLIC HEARING. A public hearing has not been scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than 15 days prior to the close of the written comment period.

SUBSTANTIAL REVISIONS WILL REQUIRE A RENOTICE. Following the public hearing, the Department will adopt the regulations without further notice. However, if the Department chooses to substantially alter or revise the proposed

regulatory action, a revised notice, called a renote, and the amended version of the proposed text of the regulations will be made available to the public for another public comment period for fifteen (15) days prior to its adoption. Those persons who testified at the public hearing, submitted written comments at the public hearing, whose comments were received by the Department during the public comment period, or who requested notification from the Department of the availability of changes to the text of the proposed regulations, will be sent any renotes.

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Under the existing law, the California Beverage Container Recycling and Litter Reduction Act (Act) encourages recycling of specific beverage containers and the reduction of littered beverage containers along the State's highways. Under this Act, the Department, through the Division, is responsible for administering the Act and protecting the integrity of the California Beverage Container Recycling Fund (Fund).

The Department amended the CCR Sections 2430, 2525, and 2535 (effective July 28, 2004) to clarify the statutory requirements of Section 14572 of the Public Resources Code. These regulatory amendments clarified and increased the consumer's option of payment by count from "up to fifty empty beverage containers" to "up to fifty empty beverage containers of each material type."

The proposed amendments to the CCR Sections 2500 and 2535 will alleviate confusion among consumers and recycling center operators by clarifying the consumers' option of being paid refund value by count for up to fifty empty beverage containers of each material type. The addition of "[each resin type]" to the plastic "material type" reference will further clarify that consumers also have the option of payment by count for each plastic resin type. The payment by count signage requirement will alert consumers of their option to request payment by count.

Adoption of the proposed amendments will further clarify regulations, reduce the ongoing complaints from consumers, and reduce confusion among recycling center operators and their attendants regarding the Division's payment by count transaction requirements. These amendments will make recycling by count more consumer friendly, thus, providing consumers a greater incentive to recycle and improve the Division's potential for meeting its recycling rate goal, as mandated by the Act.

## AUTHORITY

These regulations are submitted pursuant to the Department's authority under Public Resources Code Sections, 14530.5(b) and 14536.

## REFERENCE

Public Resources Code Sections, 14552(a), 14571(d), 14571.3(a), 14572, and 14572.5.

## DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: The Department has determined that adoption of these proposed regulations do not impose any new mandates on local agencies or local school districts.

Cost or savings to any state agency: No savings or additional expenses to state agencies are identified because the implementation of statute is financed by the beverage container recycling program itself.

Costs to any local agency or school district which must be reimbursed in accordance with Government Code §§17500 through 17630: The Department has determined that the adoption of these proposed regulations does not impose any additional cost obligations on local agencies or on local school districts.

Other non-discretionary cost or savings imposed upon local agencies: No other non-discretionary costs or savings to local agencies have been identified.

Cost or savings in federal funding to the State: No costs or savings in federal funding to the state have been identified.

Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: The Department has determined that no significant impact to California businesses will result from the adoption of this proposed regulatory language.

These proposed regulations serve to clarify and make specific existing statutory requirements.

Potential cost impact on private persons or directly affected businesses: The Department has determined that no significant impact to California private persons or directly affected businesses will result from the adoption of this proposed regulatory language. The estimated cost for a recycling center to comply with the signage requirements is \$12.00. These proposed regulations serve to clarify and make specific existing statutory requirements.

Creation or elimination of jobs in California: The Department has determined that the adoption of these regulations will not:

Create or eliminate jobs within California;

Create new nor eliminate existing businesses within California;

Expand businesses currently doing business in California.

Significant effect on housing costs: The Department has determined that the adoption of these regulations will have no significant effect on housing costs.

Effects on small businesses: The Department has determined that the adoption of these proposed regulations will insignificantly affect small businesses. These proposed regulations serve to clarify and make specific existing requirements contained in statute. These proposed regulations do not mandate actions upon private persons or businesses, but rather clarifies existing statutory mandates.

### CONSIDERATION OF ALTERNATIVES

The Department has determined that no reasonable alternative that it considers or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action. The Department has not identified any adverse impacts resulting from these proposed regulations.

### FINAL STATEMENT OF REASONS

A copy of the final statement of reasons may be obtained, when it becomes available, from the agency contact person or backup contact person identified in this notice.

### ACCESSING INFORMATION REGARDING THIS FILE ON THE DEPARTMENT OF CONSERVATION WEBSITE

The text of the proposed regulations, the Notice of Proposed Action, the Initial Statement of Reasons and the Final Statement of Reasons, when available for review, will be on the Department of Conservation website at:

[www.conservation.ca.gov](http://www.conservation.ca.gov).